

**PROPOSED AMENDMENTS TO
HOUSE BILL 2349**

1 On page 1 of the printed bill, line 2, after “125.240” insert “and 125.475”.

2 Delete lines 4 through 31 and delete pages 2 and 3 and insert:

3 **“SECTION 1.** ORS 125.240, as amended by section 20, chapter 117, Oregon
4 Laws 2014, is amended to read:

5 “125.240. (1) If a petition seeks the appointment of a professional
6 fiduciary, the petition must contain the following information in addition to
7 that information required under ORS 125.055:

8 “(a) Proof that the professional fiduciary, or an individual responsible for
9 making decisions for clients or for managing client assets for the profes-
10 sional fiduciary, is certified by the Center for Guardianship Certification or
11 its successor organization as a National Certified Guardian or a National
12 Master Guardian.

13 “(b) A description of the events that led to the involvement of the pro-
14 fessional fiduciary in the case.

15 “(c) The [*professional fiduciary’s*] educational background, [*and*] profes-
16 sional experience, **investment credentials and licensing under ORS**
17 **chapter 59 of the individual responsible as, or acting on behalf of, the**
18 **professional fiduciary.**

19 “(d)(A) The fees charged by the professional fiduciary and whether the
20 fees are on an hourly basis or are based on charges for individual services
21 rendered, **including whether there is any revenue sharing arrangement**
22 **between the professional fiduciary and any other person.**

1 **“(B) The method by which the fees described in subparagraph (A)**
2 **of this paragraph will be assessed or charged, whether by commissions,**
3 **monthly charges or any other method.**

4 “(e) The names of providers of direct services to protected persons that
5 are repeatedly used by the professional fiduciary under contract.

6 “(f) The disclosures required under ORS 125.221 if the person nominated
7 to act as a professional fiduciary will employ a person in which the nomi-
8 nated person has a pecuniary or financial interest.

9 “(g) The number of protected persons for whom the person performs
10 fiduciary services at the time of the petition.

11 “(h) Whether the professional fiduciary has ever had a claim against the
12 bond of the professional fiduciary and a description of the circumstances
13 causing the claim.

14 “(i) Whether the professional fiduciary or any staff with responsibility for
15 making decisions for clients or for management of client assets has ever filed
16 for bankruptcy and the date of filing.

17 “(j)(A) Whether the professional fiduciary or any staff with responsibility
18 for making decisions for clients or for management of client assets has ever
19 been denied a professional license that is directly related to responsibilities
20 of the professional fiduciary, or has ever held a professional license that is
21 directly related to responsibilities of the professional fiduciary that was re-
22 voked or canceled. If such a license has been denied, revoked or canceled,
23 the petition must reflect the date of the denial, revocation or cancellation
24 and the name of the regulatory body that denied, revoked or canceled the
25 license.

26 “(B) A professional license under this paragraph includes a certificate
27 described in paragraph (a) of this subsection.

28 “(k) A statement that the criminal records check required under sub-
29 section (2) of this section does not disqualify the person from acting as a
30 professional fiduciary.

1 “(L) Whether the professional fiduciary and any staff responsible for
2 making decisions for clients or for management of client assets is or has
3 been certified by a national or state association of professional fiduciaries,
4 the name of any such association and whether the professional fiduciary or
5 other staff person has ever been disciplined by any such association and the
6 result of the disciplinary action.

7 “(m) The name, address and telephone number of the individual who is
8 to act as primary decision maker for the protected person and the name of
9 the person with whom the protected person will have personal contact if that
10 person is not the person who will act as primary decision maker for the
11 protected person.

12 **“(n) An acknowledgment by the professional fiduciary that the
13 professional fiduciary will make all investments of client assets in ac-
14 cordance with the standards set forth in ORS 130.750 to 130.775.**

15 “(2)(a) If a petition seeks the appointment of a professional fiduciary as
16 described in subsection (5) of this section, the professional fiduciary and all
17 staff with responsibility for making decisions for clients or for management
18 of client assets must undergo a criminal records check before the court may
19 appoint the professional fiduciary. The results of the criminal records check
20 shall be provided by the petitioner to the court. Results of criminal records
21 checks submitted to the court are confidential, shall be subject to inspection
22 only by the parties to the proceedings and their attorneys, and shall not be
23 subject to inspection by members of the public except pursuant to a court
24 order entered after a showing of good cause. A professional fiduciary must
25 disclose to the court any criminal conviction of the professional fiduciary
26 that occurs after the criminal records check was performed. The criminal
27 records check under this subsection shall consist of a check for a criminal
28 record in the State of Oregon and a national criminal records check if:

29 “(A) The person has resided in another state within five years before the
30 date that the criminal records check is performed;

1 “(B) The person has disclosed the existence of a criminal conviction; or

2 “(C) A criminal records check in Oregon discloses the existence of a
3 criminal record in another jurisdiction.

4 “(b) The requirements of this subsection do not apply to any person who
5 serves as a public guardian or conservator, or any staff of a public guardian
6 or conservator, who is operating under ORS 125.700 to 125.730 or 406.050 and
7 who is otherwise required to acquire a criminal records check for other
8 purposes.

9 “(3)(a) If a petition seeks the appointment of a county public guardian and
10 conservator operating under the provisions of ORS 125.700 to 125.730, or the
11 appointment of a conservator under ORS 406.050 (8), the petition need not
12 contain the information described in subsection (1)(e) or (m) of this section.

13 “(b) If a county public guardian and conservator operating under the
14 provisions of ORS 125.700 to 125.730 is appointed to act as a professional
15 fiduciary, or a conservator operating under the authority of ORS 406.050 (8)
16 is appointed, the public guardian or conservator must file with the court
17 within three days after receipt of written notice of the appointment a state-
18 ment containing the name, address and telephone number of the individual
19 who will act as primary decision maker for the protected person and the
20 name of the person with whom the protected person will have personal con-
21 tact if the person named as primary decision maker will not have personal
22 contact with the protected person.

23 “(4) If the court appoints a professional fiduciary as described in sub-
24 section (5) of this section, the professional fiduciary must update all infor-
25 mation required to be disclosed by subsection (1) of this section and provide
26 a copy of the updated statement upon the request of the protected person or
27 upon the request of any person entitled to notice under ORS 125.060 (3). The
28 professional fiduciary must provide an updated statement without demand to
29 the court, the protected person and persons entitled to notice under ORS
30 125.060 (3) at any time that there is a change in the information provided

1 under subsection (1)(m) or (3)(b) of this section.

2 “(5) As used in this section, ‘professional fiduciary’ means a person nom-
3 inated as a fiduciary or serving as a fiduciary who is acting at the same time
4 as a fiduciary for three or more protected persons who are not related to the
5 fiduciary.

6 **“SECTION 2.** ORS 125.475 is amended to read:

7 “125.475. (1) Unless the court by order provides otherwise, a conservator
8 shall account to the court for the administration of the protected estate
9 within 60 days after each anniversary of appointment. In addition, a
10 conservator shall account to the court for the administration of the protected
11 estate:

12 “(a) Within 60 days after the death of the protected person, a minor pro-
13 tected person attains majority or an adult protected person becomes able to
14 manage the protected person’s financial resources; and

15 “(b) Within 30 days after the removal of the conservator, the resignation
16 of the conservator or the termination of the conservator’s authority under
17 ORS 125.410 (7).

18 “(2) Each accounting must include the following information:

19 “(a) The period of time covered by the accounting.

20 “(b) The total value of the property with which the conservator is
21 chargeable according to the inventory, or, if there was a prior accounting,
22 the amount of the balance of the prior accounting.

23 “(c) All money and property received during the period covered by the
24 accounting.

25 “(d) All disbursements made during the period covered by the accounting.

26 “(e) The amount of bond posted by the conservator during the period
27 covered by the accounting.

28 **“(f) With respect to conservators who are professional fiduciaries,**
29 **the total amount of compensation that investment advisers or brokers**
30 **other than the professional fiduciary charged or received in charges**

1 **for investments managed or transacted by the investment advisers or**
2 **brokers.**

3 “[~~(f)~~] (g) Such other information as the conservator considers necessary,
4 or that the court might require, for the purpose of disclosing the condition
5 of the estate.

6 “(3) Vouchers for disbursements must accompany the accounting unless
7 otherwise provided by order or rule of the court or unless the conservator
8 is a trust company that has complied with ORS 709.030. If vouchers are not
9 required, the conservator shall:

10 “(a) Maintain the vouchers for a period of not less than one year follow-
11 ing the date on which the order approving the final accounting is entered;

12 “(b) Permit interested persons to inspect the vouchers and receive copies
13 of the vouchers at their own expense at the place of business of the
14 conservator during the conservator’s normal business hours at any time be-
15 fore the end of one year following the date on which the order approving the
16 final accounting is entered; and

17 “(c) Include in each annual accounting and the final accounting a state-
18 ment that the vouchers are not filed with the accounting but are maintained
19 by the conservator and may be inspected and copied as provided in this
20 subsection.

21 “(4) The court may waive a final accounting if:

22 “(a) The conservator was appointed because the protected person was a
23 minor, and the protected person has attained the age of majority, or the
24 conservator was appointed because the protected person was financially in-
25 capable, and the protected person is no longer financially incapable;

26 “(b) The protected person gives a receipt to the conservator for the
27 property delivered to the protected person; and

28 “(c) The conservator files with the court a copy of the receipt issued by
29 the protected person to the conservator.

30 “(5) Copies of accountings must be served on all persons listed in ORS

1 125.060 (3). The court may waive service on the protected person if service
2 of the copy would not assist the protected person in understanding the pro-
3 ceedings.

4 “(6) The court may require a conservator to submit to a physical check
5 of the estate in the control of the conservator at any time and in any manner
6 the court may specify.

7 “(7) The Chief Justice of the Supreme Court may by rule specify the form
8 and contents of accounts that must be filed by a conservator.”.

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